

AMENDED IN ASSEMBLY APRIL 19, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1310

Introduced by ~~Committee on Labor and Employment (Koretz (Chair), Chan, Chu, Klehs, Laird, and Leno)~~ Assembly Member Nunez

February 22, 2005

An act to add Section 2929.5 to the Labor Code, relating to employment termination agreements.

LEGISLATIVE COUNSEL'S DIGEST

AB 1310, as amended, ~~Committee on Labor and Employment Nunez~~. Job training and workforce development Severance offers: disclosures.

The federal Workforce Investment Act of 1998 provides a framework for the promotion of job training and workforce development nationwide. The act, among other things, provides for the establishment of state workforce investment boards, the development by states of 5-year strategic plans, establishes a funding mechanism for states and local areas, and authorizes certain statewide activities. California law provides for the establishment of an employment training program, to complement and be coordinated with, the act.

This bill would state the intent of the Legislature to amend California law related to job training and workforce development following federal reauthorization of the Workforce Investment Act of 1998.

Existing state law provides for the enforcement of contracts generally, but does not specifically regulate offers to compensate an employee in return for the employee's voluntary resignation.

This bill would forbid an employer to offer cash or any other thing of value to an employee in return for that employee's voluntary resignation from employment unless the employer provides, at the same time that it extends that offer, to the employee specified disclosures relating to the financial consequences of the resignation and a 21-day period during which the employee may reconsider any decision to accept the offer. Failure to comply would make the employer liable to the aggrieved employee in the amount of \$100 per day for the period between the offer and the date that the employer provides the required disclosures and reconsideration opportunity. The bill would provide that its provisions could not be waived by an employee except as part of a settlement in a court or an administrative, grievance, or arbitration proceeding, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

~~1 SECTION 1. It is the intent of the Legislature to amend
2 California law related to job training and workforce development
3 following federal reauthorization of the Workforce Investment
4 Act of 1998 (29 U.S.C. Sec. 2801 et seq.).~~

5 SECTION 1. Section 2929.5 is added to the Labor Code, to
6 read:

7 2929.5. (a) No employer shall offer cash or any other thing
8 of value to an employee in return for that employee's voluntary
9 resignation from employment unless that employer provides the
10 employee, at the same time that it extends that offer, with all of
11 the following:

12 (1) An accurate written estimate of the tax consequences to the
13 employee of acceptance of the offer.

14 (2) Accurate written projections of the present value of all
15 compensation, including, but not limited to, wages, health care
16 benefits, and retirement benefits, that may be lost or impaired as
17 a result of accepting the offer, assuming the employee were to
18 continue in employment for the employer for an additional 5, 10,
19 and 15 years.

20 (3) A period of 21 days for the employee to reconsider his or
21 her acceptance of the offer.

1 ***(b) Should an employer fail to comply with subdivision (a), it***
2 ***shall be liable to an aggrieved employee in the amount of one***
3 ***hundred dollars (\$100) per day for the period from the making of***
4 ***the offer until the date that the employer provides the required***
5 ***disclosures and reconsideration opportunity.***

6 ***(c) The provisions of this section may not be waived by an***
7 ***employee, except as part of the settlement of one of the following:***

8 ***(1) An action or proceeding pending in a court of the United***
9 ***States or of any state or territory of the United States.***

10 ***(2) A proceeding before an administrative body established***
11 ***under the law of the United States or of any state or territory of***
12 ***the United States.***

13 ***(3) A matter pending in a grievance or arbitration procedure***
14 ***established under a collective bargaining agreement covering the***
15 ***employee.***